

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
v.) No. 4:07CR541 CDP
)
DARWIN MARKEITH HUGGANS,)
)
 Defendant.)

ORDER

This matter is before the Court on defendant Darwin Markeith Huggans' pretrial motions. The case is set for trial on Monday, September 15, 2008. All pretrial motions were referred to United States Magistrate Judge Audrey G. Fleissig under 28 U.S.C. § 636(b). Judge Fleissig held a hearing and issued a Report and Recommendation, in which she recommended that defendant's motions to dismiss the indictment and to sever counts be denied. Judge Fleissig also denied defendant's motion for discovery and for a bill of particulars. Defendant has filed objections to the recommendations, and has also asked the court to overrule the ruling on the motion for bill of particulars.

I have conducted *de novo* review of the motions, including listening to the arguments made at the hearing before the Magistrate Judge. Based on that review,

I conclude that the Magistrate Judge correctly analyzed the issues, and I will adopt her Report and Recommendations and will overrule defendant's objections.

Defendant argues that the indictment should be dismissed because the government lacks sufficient evidence for a conviction. Even considering the authorities cited by defendant, there is no basis for dismissal of the case at this time. Whether the government can prove its case at trial will be determined at trial, and the defendant has not shown that the government should not be allowed to attempt to make its case before a jury.

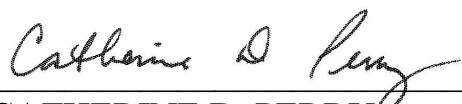
Defendant has also failed to show that severance is required in the case. Joinder of the counts is proper, and the Court can protect against any potential unfair prejudice from the joinder by appropriate instructions at trial. Finally, defendant is not entitled to a bill of particulars. The indictment is sufficient without further particulars, and I will not overturn the Magistrate Judge's ruling on this point.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of the United States Magistrate Judge [#58] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendant's motion to dismiss and amended motion to dismiss [#20,50] and his motion to sever [#58] are denied.

IT IS FURTHER ORDERED that a final pretrial conference will be held in this case on **Thursday, September 11, 2008 at 10:00 a.m.** Defendant must be present at the hearing. No later than **Tuesday, September 9, 2008** the government shall provide defense counsel with notice of any evidence it intends to introduce under Rule 404(b), Fed. R. Evid. I expect to rule on the admissibility of any Rule 404(b) evidence at the pretrial hearing. I also intend to rule at that time on any disputes the parties may have over the accuracy of any transcripts to be used with recordings to be played in evidence. For me to do that, obviously, counsel must meet and confer in advance so they can present any disputes to me for resolution at the hearing without wasting time. Counsel should also be prepared to discuss any other evidentiary or legal issues that may arise at trial, as well as providing a realistic estimate of the length of the trial.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 27th day of August, 2008.